



State of Connecticut  
Department of Developmental Services

DDS

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Governor

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Commissioner

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Deputy Commissioner

**DEPARTMENT OF DEVELOPMENTAL SERVICES TESTIMONY  
BEFORE THE HUMAN SERVICES COMMITTEE  
March 8, 2022**

Senators Moore and Berthel, Representatives Abercrombie and Case and members of the Human Services Committee, I am Jordan A. Scheff, Commissioner of the Department of Developmental Services (DDS). Thank you for the opportunity to offer testimony on **S.B. No. 288 AN ACT EXEMPTING MEDICAID WAIVER AND STATE PLAN AMENDMENT SUBMISSIONS FILED IN RESPONSE TO A DECLARED EMERGENCY OR DISASTER FROM NOTICE AND PUBLIC HEARING REQUIREMENTS.**

This legislation would allow any waiver application, renewal of a waiver application or Medicaid state plan amendment submission made by the Commissioner of Social Services in response to a federally declared emergency, public health emergency or civil preparedness emergency to waive the requirements of section 17b-8 of the Connecticut General Statutes (CGS).

The Department of Developmental Services (DDS) operates three home and community-based services (HCBS) Medicaid waivers, while the Department of Social Services, as the lead Medicaid agency for Connecticut, maintains administrative authority over all HCBS Medicaid waivers in the state.

C.G.S. 17b-8 articulates the process in which changes to HCBS Medicaid waivers must follow prior to submission to the Centers for Medicare and Medicaid Services (CMS). This process includes, but is not limited to, a 30-day public comment period for all potential changes as well as a public hearing with the Committees of Cognizance within the Connecticut General Assembly upon closure of the public comment period. The hearing must be held within 30 days of the public comment period closing. This means the process articulated in C.G.S. 17b-8 can take a minimum of 35 days (due to Connecticut General Assembly public hearing posting requirements) or a maximum of 60 days for state review and approval before the waiver can be submitted to CMS for review, approval and subsequent implementation.

The COVID-19 pandemic hit Connecticut quickly with far-reaching and heart-wrenching affects. DDS, like so many others, was forced to implement swift changes to the ways the department provided supports and services to ensure the health and safety of waiver participants could be maintained. This meant offering supports differently, as well as limiting or expanding supports to meet the unique needs of individuals we support. In many cases, these changes were not allowable under the current Medicaid waivers (for instance, providing some supports virtually) but which were necessary for the welfare of the individuals we support, as well as the staff and providers that provide those supports.

CMS recognizes the need for states to make swift decisions in emergency situations and created an expedited process for states to utilize when requesting amendments to approved HCBS waivers during such times. Known as the Appendix K, Emergency Preparedness and Response for HCBS 1915(c) waivers, this

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process allows for temporary waiver amendments. Unlike the normal waiver approval process, Appendix K also allows for waiver changes to be made retroactive. All changes approved through Appendix K are temporary up to 6 months after the declared emergency situation ends.

Currently, if the state were to initiate an Appendix K change, as experienced during the COVID-19 pandemic, the requirements of C.G.S. 17b-8 must still be followed prior to Appendix K submission to CMS. This process slows down the ability to implement necessary, in many cases, health and safety safeguards, in an expedited manner. Without approval from CMS to amend HCBS Medicaid waivers, the state is jeopardizing federal reimbursement on Medicaid services. In FY 2021, the state received over \$562 million dollars in federal match through our Medicaid supports and services through DDS alone.

This legislation would allow the state to submit and implement necessary changes in emergency situations to ensure the health and safety of waiver participants. Because the process implemented by CMS only allows such changes on a temporary basis, C.G.S. 17b-8 would still be required and relevant if the state was seeking to implement any such changes to the waiver on a permanent basis. For these reasons DDS supports [S.B. No. 288](#).

Thank you for the opportunity to offer testimony regarding [S.B. No. 288](#) **AN ACT EXEMPTING MEDICAID WAIVER AND STATE PLAN AMENDMENT SUBMISSIONS FILED IN RESPONSE TO A DECLARED EMERGENCY OR DISASTER FROM NOTICE AND PUBLIC HEARING REQUIREMENTS**. Please contact Kevin Bronson, DDS Director of Communications, Legislation and Regulations at 860-550-3497 with any questions.